



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,744	12/20/2001	Joseph C. Walsh	PP 5.71(c)	4239
7590 01/30/2004			EXAMINER	
Michael A. Goodwin, Esq. Klaas, Law, O'Meara & Malkin, P.C. Suite 2225 1999 Broadway Denver, CO 80202			TAWFIK, SAMEH	
			ART UNIT	PAPER NUMBER
			3721	
			DATE MAILED: 01/30/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,744

Applicant(s)

WALSH, JOSEPH C.

Examiner

Sameh H. Tawfik

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-26,28 and 95-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-26,28 and 95-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldstein (2,701,679).

Goldstein discloses process for making a dispensing assembly comprising providing carton means having a dispensing opening (Fig 2) in a side wall (11) thereof pour spout means (C) mounted in the dispensing opening and including a front panel (Fig. 4; via portion 23) and separate liner means in the carton (Figs. 3 and 4; via the upper portion of ply A); bonding the liner means to the front panel (Fig. 9) whereby upon initial opening of the pour spout means that portion of the liner bonded to the front panel separates from the liner means providing access to the interior thereof (Fig. 3) and wherein the pour spout means further comprises a first wing portion and a second wing portion (Figs. 2 and 4; via wings 28 and 29).

Regarding claim 28: the first wing portion is attached to the front panel at a first fold line and the second wing portion is attached to the front panel at a second fold line (Figs. 2 and 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3721

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 22, 95, 96, 101, and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (2,701,679).

Goldstein does not disclose that the pour spout means front panel comprises a lamination of a paperboard material and a plastic polyester material. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Goldstein's process for making a dispensing assembly by having a plastic polyester material laminated to a paperboard material, as a matter of engineering design choice, since the examiner takes an official notice that the mentioned lamination of a paperboard material and a plastic polyester material is old, well known, and available in the art in order to avoid damaging the cardboard containers when filling them with liquid, for example cardboard milk containers or juice containers.

Regarding claim 101: Goldstein discloses a first wing portion and a second wing portion (Figs. 2 and 4; via wings 28 and 29).

Regarding claim 102: Goldstein discloses the first wing portion is attached to the front panel at a first fold line and the second wing portion is attached to the front panel at a second fold line (Figs. 2 and 3).

Claims 23-26 and 97-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein (2,701,679) in view of Knauf (5,415,910).

Art Unit: 3721

Goldstein does not disclose a coating layer of polyethylene on the plastic material and bond coating layer to the liner means. However, Knauf discloses a similar method of making container with separate layers and coating layer of polyethylene (Fig. 4 and column 4, lines 25-27) and bonding the liners and coating layer together (via adhesive layer 33).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Goldstein's method by having a coating layer of polyethylene, as suggested by Knauf, in order to improve inner liner for a container for dough and similar products (column 3, lines 26-28).

Conclusion

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 3721

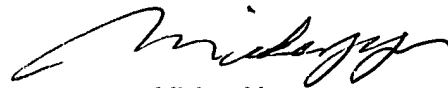
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is (703) 308-2809.

The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ST.



Mickey Yu
Supervisory Patent Examiner
Group 3700